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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,554	03/04/2002	Glenn E. Land	Land	5314
23294	7590	04/05/2004		
JONES, TULLAR & COOPER, P.C. P.O. BOX 2266 EADS STATION ARLINGTON, VA 22202			EXAMINER MANOHARAN, VIRGINIA	
			ART UNIT	PAPER NUMBER

1764

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,554

Applicant(s)

LAND, GLENN E.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-21 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-21 and 31-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10-21 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Land (5,932,073) in view of Salmon (5,348,623).

The above references are applied for the same combined reasons as set forth at the last paragraph, page 2 through the first full paragraph, page 3 of the previous Office action.

Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Land in view of Salmon as applied to claims 1, 10-21 and 31-35 above, and further in view of Harkey Sr (5, 059,287).

Harkey Sr. is applied for the same reasons as set forth at the third full paragraph, page 3 of the previous Office action.

Applicant's arguments filed Nov. 5, 2003 have been fully considered but they are not persuasive. Applicants' following arguments such as:

"...Land does not teach several features of the present invention including, among other things, the non-invasive sensor or the dual container vessel." And further "...Salmon.... do not show or suggest the structure of the non-invasive sensor of the subject invention....there is no teaching or suggestion that the non-invasive sensor and

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controller should control the water inlet valve or heating element of a water purification and distillation system" are not persuasive of patentability because of the following reasons:

Although Land does not specifically disclose the dual container vessel as argued, however, said dual container vessel is not an unobvious subject matter nor is it evidence of criticality in the art. This is recognized by applicant. The specification at page 8, [0023] recites that "A single vessel boiler may be utilized as an alternative to the preferred inner and outer vessel boiler, in which case the vessel is removably seated within an open top insulative boiler housing or pocket..." Thus, Land's non-dual (single) container is deemed capable of performing similar function as the argued dual container vessel (which is seen merely as a matter of additive). Nonetheless, Salmon's disclosure, e.g., at col.5, lines 60-67 through col.6, lines 1-5 would at least be suggestive of the above argued "dual container vessel". That is, Salmon specifically discloses a circular pre-chamber portion (174) coaxially oriented about the evaporator tank portion (172). See also Fig. 7.

Furthermore, contrary to applicant's assertion, Salmon's disclosure at col.11, lines 56-67 would render obvious the broadly claimed "wherein said sensor includes a sensor housing, said housing being located outside said boiler vessel and the interior of said sensor housing being in fluid connection with the interior of said boiler vessel." in claim 1", as well as the argued "...the sensor housing and sensor of the subject application is connected to a controller that controls the water inlet solenoid."

Moreover, Salmon's disclosure at col.14, lines 27-28, would also be at least suggestive of the argued controller that is also usable to shut of power to the heating element. Thus, the non-invasive level sensor of Salmon does establish control over the heating element. Note also col.11, lines 32-34 of Land suggesting a control means responsive to water level sensor for regulation of the heater. In addition, applicant's further argument that while the cover in Harkey, Sr. suspends the heating element in a water distiller, claim 3 of the subject application states that the cover supports the heater in an inner container for heating water in the inner container and in a preheated region..."is no patentable moment. The same heating element of Harkey suspended in the cover is capable of performing the dual function of heating water in the inner container and in a preheated region. [The claims are not limited to separate heaters]. Harkey was not also cited to suggest the "dual container vessel with a preheated chamber," but for reasons of record. Applicant is arguing the references individually where the references is based on a combination of references.

Thus, in the absence of anything which may be "new" or "unexpected result", a prima facie case of obviousness has been reasonably established by the art and has not been rebutted.

Unexpected results must be established by factual evidence. Mere arguments or conclusory statements in the specification, applicant's amendments, or the Brief do not suffice. In re Lindner, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972). In re Wood, 582, F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978).

The arguments relative to Turner et al, Spencer and Sundquist are persuasive! and therefore are dropped from the above the rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is (571) 272-1450. The examiner can normally be reached on Tuesday-Friday from 7:00a.m to 6:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola, can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9311.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Manoharan/tgd

March 15, 2004


PRIMARY EXAMINER
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